

ENTERED

March 10, 2016

David J. Bradley, Clerk

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

UNITED STATES OF AMERICA

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VS.

CRIMINAL ACTION NO. H-11-722

ABRAHAM MOSES FISCH

ORDER

Abraham Moses Fisch moves for release pending appeal under 18 U.S.C. § 3143(b). (Docket Entry No. 565). “[A] person who has been found guilty of an offense and sentenced to a term of imprisonment, and who has filed an appeal or a petition for a writ of certiorari,” must “be detained” unless the court finds

- (A) by clear and convincing evidence that the person is not likely to flee or pose a danger to the safety of any other person or the community if released under section 3142(b) or (c) of this title; and
- (B) that the appeal is not for the purpose of delay and raises a substantial question of law or fact likely to result in--
 - (i) reversal,
 - (ii) an order for a new trial,
 - (iii) a sentence that does not include a term of imprisonment, or
 - (iv) a reduced sentence to a term of imprisonment less than the total of the time already served plus the expected duration of the appeal process.

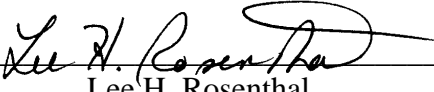
18 U.S.C. § 3143(b)(1). The defendant has the burden to establish a right to release pending appeal.

United States v. Valera-Elizondo, 761 F.2d 1020, 1025 (5th Cir. 1985). For substantially the same reasons stated on the record at the October 27, 2015 sentencing, (Docket Entry Nos. 467, 513), the court concludes that Fisch has not shown that he is entitled to the relief he seeks under the

§ 3143(b)(1) factors.

The motion for release pending appeal is denied. (Docket Entry No. 565).

SIGNED on March 10, 2016, at Houston, Texas.



Lee H. Rosenthal
United States District Judge